

REMARKS

The Examiner has objected to Claims 26 and 33 due to informalities. Applicant has clarified such claims to overcome such objection.

The Examiner has revised the current rejection in light of new prior art and a reformulated rejection. As set forth below, such new rejection is still deficient. However, despite such deficiencies and in the spirit of expediting the prosecution of the present application, applicant has incorporated the subject matter of one dependent claim into each of the independent claims. Since the subject matter of such dependent claim was already considered by the Examiner, it is asserted that such claim amendments would not require new search and/or consideration.

The Examiner has rejected Claims 1-3, 6-12, 15-20, 22-27 and 29-40 under 35 U.S.C. 103(a) as being unpatentable over Liu et al. (U.S. Patent Application Publication No. 2002/0147780) in view of Ji et al. (U.S. Patent No. 5,889,943).

With respect to independent Claims 1 and 10, the Examiner has relied on paragraph [0071] in Liu along with the Abstract, Figures 6b-6c, 8b, 11d and 13-15, Col. 16, line 37-Col. 17, line 16 and Col. 8, line 59-Col. 9, line 67 in Ji to make a prior art showing of applicant's claimed "intermediate message queue staging each such clean message pending further processing" (see the same or similar, but not identical language in each of the foregoing claims).

The Examiner has specifically admitted that Liu does not teach an "intermediate message queue [for] staging each such clean message pending further processing," as claimed by applicant (emphasis added). Instead, the Examiner has relied on Ji's teaching of "downloading the [unscanned] messages into a memory of a node, and performing virus detection and analysis at the node" (see Abstract) to meet applicant's specific claim language. First, applicant respectfully asserts that, in Liu, messages that have been

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scanned and cleaned are queued for being forwarded to a recipient's email (see paragraph [0071]). Thus, in Liu the messages have already been scanned for viruses before being queued, whereas applicant claims queuing "each such clean message [that is] pending further processing," where each such clean message is identified as clean according to a comparison "of each address field against the blocking rules" (emphasis added).

Furthermore, Ji discloses that if a file is not of a type that can contain viruses (see operation 646 of Figure 6c) then the file is transferred to the client (see operation 648 of Figure 6c). Thus, the only messages that are temporarily stored and scanned (see operations 650 and 652 of Figure 6c) are those that are of a type that can contain viruses. Clearly, such a teaching in Ji does not meet applicant's specifically claimed "intermediate message queue[for] staging each such clean message," where such clean messages are identified by comparing "the contents of each address field against the blocking rules," as claimed (emphasis added).

For substantially the same reasons as given above, applicant respectfully asserts that the combination of the Liu and Ji references also fails to meet applicant's claimed "antivirus scanner scanning each message in the intermediate message queue for at least one of a computer virus and malware; and an event handler performing each scanning operation as an event responsive to each such clean message staged in the intermediate message queue" (see the same or similar, but not identical language in independent Claims 1 and 10-emphasis added).

With respect to Claims 20 and 27, the Examiner has relied on paragraphs [0044] and [0049] in Liu to make a prior art showing of applicant's claimed "comparison module comparing the tokens to characteristics indicative of at least one of a computer virus and malware to identify screened incoming message packets, and forwarding each screened incoming message packet" (see the same or similar, but not identical language in each of such independent claims). Specifically, the Examiner has stated that Liu teaches a comparison module to screen bad messages and identify clean messages.

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Applicant respectfully asserts that the above cited claim language is not met by Liu's general teaching of screening bad messages, as contended by the Examiner. In particular, applicant specifically claims "identify[ing] screened incoming message packets" such that it is the screened message packets that are identified, and not merely "bad messages," as the Examiner has argued.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above. Nevertheless, despite such paramount deficiencies and in the spirit of expediting the prosecution of the present application, applicant has substantially incorporated the subject matter of Claim 38 into each of the independent claims.

With respect to the subject matter of Claim 38, as substantially incorporated into each of the independent claims, the Examiner has relied on item 662 in Figures 6c of Ji to make a prior art showing of applicant's claimed technique "wherein the infected messages are blocked from entering the intermediate message queue immediately after the comparison is made between the blocking rules and the contents of at least one of the address fields."

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Applicant respectfully asserts that Figure 6c in Ji explicitly shows deleting or renaming an infected file (item 662) after storing and scanning the temporary file at the gateway (items 650-652). Thus, the infected files in Ji are not blocked from being stored in the temporary storage since they are only deleted/renamed after they have already been stored in the temporary storage. In fact, applicant notes that Ji even *teaches away* from applicant's specific claim language. In particular, files that are of a type that can contain viruses are stored temporarily (item 646-650), and therefore infected messages would not be "blocked from entering the intermediate message queue," in the manner claimed by applicant since, in Ji, those types of files are the ones the must be stored temporarily for scanning.

Since at least the third element of the *prima facie* case of obviousness has not been met, a notice of allowance or a proper prior art showing of all of the claim limitations, in the context of the remaining elements, is respectfully requested. Applicant further notes that the prior art is also deficient with respect to the dependent claims.

With respect to the subject matter of Claim 37, the Examiner has simply stated that Ji and Lui teach "using a FIFO, which has a specific determined size" to make a prior art showing of applicant's claimed technique "wherein the constant size is determined according to a progress of the antivirus scanner in order to prevent the intermediate message queue from becoming overloaded with the messages awaiting scanning." It making such a statement, it seems the Examiner has failed to address all of applicant's claim language. In particular, the Examiner has not made any prior art showing of an intermediate message queue with a "constant size [that] is determined according to a progress of the antivirus scanner," as specifically claimed by applicant (emphasis added).

Again, a notice of allowance or a specific prior art showing of such claim features, in combination with the remaining claim elements, is respectfully requested.

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Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P390/01.087.02).

Respectfully submitted,
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